



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 24, 1994

Mr. Phillip M. Hughes
Law Offices of Crawford, Crawford & Hughes
218 North Getty Street
Uvalde, Texas 78801

OR94-085

Dear Mr. Hughes:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), Government Code chapter 552 (formerly V.T.C.S. article 6252-17a).¹ We assigned your request ID# 24513.

The City of Uvalde (the "city"), which you represent, has received a request for information relating to personnel action taken against two city police officers. Specifically, the requestor seeks "any letters of termination, suspension, reprimand, warning, or any written notices of any of the above from Uvalde Police Chief Bill Dean to Armando Martinez or Stephen Luman." You have submitted the requested information to us for review and claim that sections 552.101, 552.103, and 552.108 except it from required public disclosure.

Section 552.108 excepts from required public disclosure:

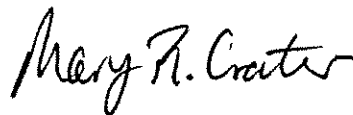
- (a) A record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime
- (b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution.

¹We note that the Seventy-third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

Gov't Code § 552.108. When applying section 552.108, this office distinguishes between cases that are still under active investigation and those that are closed. Open Records Decision No. 611 (1992) at 2. In cases that are still under active investigation, section 552.108 excepts from disclosure all information except that generally found on the first page of the offense report. *See generally* Open Records Decision No. 127 (1976). You advise us that the information submitted to us for review relates to an active criminal investigation and the district attorney is deciding whether to file charges against the officers. Accordingly, we conclude that the city may withhold the submitted information from required public disclosure under section 552.108 of the act. As we resolve this matter under section 552.108, we need not address the applicability of sections 552.101 and 552.103.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Mary R. Crouter
Assistant Attorney General
Open Government Section

MRC/GCK/rho

Enclosures: Submitted documents

Ref.: ID# 24513

cc: Mr. Richard Morris
News Director
KVOU-KYUF
P.O. Box 758
Uvalde, Texas 78802-0758
(w/o enclosures)